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In the Supreme Court of the United States

OCTOBER TERM, 1962

ANTHONY CARAMELLA AND FELIX FERONA,
PETITIONERS

v.

UNITED STATES OF AMERICA

ON PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE EIGHTH CIRCUIT

MEMORANDUM FOR THE UNITED STATES IN OPPOSITION

ARCHIBALD COX,
Solicitor General,
Department of Justice,
Washington 25, D. C.

In the Supreme Court of the United States

OCTOBER TERM, 1962

No. 203

ANTHONY CARDARELLA AND FELIX FERINA,
PETITIONERS

v.

UNITED STATES OF AMERICA

ON PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE EIGHTH CIRCUIT

MEMORANDUM FOR THE UNITED STATES IN OPPOSITION

The judgments of the court of appeals were entered on April 17, 1962, and a petition for rehearing was denied on May 14, 1962. The petition for a writ of certiorari was not filed until June 25, 1962. No application was made for an extension of time in which to file a petition for a writ of certiorari. The petition is therefore out of time under Rule 22-2 of the Rules of this Court.

There is, in any event, no occasion for further review of this cause. Petitioners were convicted in the United States District Court for the Western District of Missouri and given concurrent sentences of five years' imprisonment for the shooting of one Sheetz on account of his having testified in a federal grand jury proceeding against a seller of narcotics (Count 1) and for the forceful attempt to intimidate the witness (Count 2), and consecutive sentences of five years' imprisonment for conspiracy to commit the substantive offenses (Count 4). Petitioners challenge only the sufficiency of the evidence, the correctness of the trial court's ruling on argument by the government attorney, and the exercise of discretion by the trial judge in denying a new trial. These essentially factual questions are fully and, we submit, correctly disposed of in the opinion below (Pet. App. 37A-75A), which contains an extensive review of the evidence and discussion of the issues.

It is therefore respectfully submitted that the petition for a writ of certiorari should be denied.

ARCHIBALD COX,
Solicitor General.

JULY 1962